

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS

ETHAN THOMAS,
Plaintiff

V.

NEW ENGLAND FAST FERRY OF
MASSACHUSETTS, LLC,
NEW ENGLAND FAST FERRY
COMPANY, LLC, and
INTERLAKE LEASING IV, INC.,
Defendants

Civil Action

No. 05-11443-GAO

PLAINTIFF'S MOTION IN LIMINE REGARDING USE OF STEROIDS

NOW COMES the Plaintiff, and states as follows:

The Plaintiff testified at his deposition that he used steroids in the past, presumably for his weightlifting. The Plaintiff moves to exclude any evidence regarding his use of steroids as irrelevant and unduly prejudicial under Fed.R.Evid. 403. The Plaintiff's use of steroids has nothing to do with any issue of liability or damages that may arise in this trial. The Defendants have no medical opinions that the Plaintiff's use of steroids affected his actions on the day of the accident or his recovery. Accordingly, use of steroids could only be relevant as impeachment. However, because steroids and other performance enhancing drugs have been in the news so frequently recently, the Plaintiff believes that a jury would be prejudiced against even a former steroid user. Even if the Court finds that the prejudice would be small, it would greatly outweigh any conceivable relevance, and so should be excluded under the Rule 403 balancing test.

WHEREFORE, the Plaintiff respectfully requests that the Court enter an Order barring Defendants or their counsel from referencing to, offering any evidence on or questioning any

witness about the Plaintiff's use of steroids.

Respectfully submitted for the
the Plaintiff, by his attorney,

/s/ David J. Berg, Esq.
David J. Berg, Esq.
Latti & Anderson LLP
30-31 Union Wharf
Boston, MA 02109
(617) 523-1000

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the within document with the Clerk of the Court using the CM/ECF system which will send notification of such filing(s) to all counsel of record.

/s/ David J. Berg, Esq.
David J. Berg, Esq.
Latti & Anderson LLP
30-31 Union Wharf
Boston, MA 02109
617-523-1000

Dated: June 28, 2007